HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.19472 of 2006

Between:

M/s. Padmashree Industries represented by its Proprietor,Ananta Mallikarjuna Rao.

... Petitioner

And

The Commissioner, Ongole Municipality and others.

... Respondents

:: ORDER::

Counsel for the Petitioner: Shri P. Venkata Rao

October 09, 2006

Per G.S. Singhvi, CJ

The petitioner has sought intervention of the Court for quashing the proceedings in Rc.No.4053/F2/06 dated
14-09-2006 issued by Commissioner, Ongole Municipality for closure of the water packaging unit run by it on the ground of lack of BIS certificate and for issue of a mandamus to the respondents to allow it to run the water plant for at least six months to obtain BIS certificate.

In the affidavit filed by him, Sri Ananta Mallikarjuna Rao, proprietor of the petitioner firm, has averred that he started a small water plant for supplying mineral water from February 2006. For this purpose, he obtained Provisional Registration Certificate from the District Industries Centre, Ongole. He has further averred that he has been supplying purified drinking water to the public in the area of Ongole without any complaint. He claims to have submitted application dated 18-8-2006 for obtaining BIS certificate and sent samples for obtaining certificate of Radioactivity Test, which was issued on 14-9-2006. The petitioner's grievance is that even though it has taken all steps to get BIS certificate, the authorities of Ongole Municipality forced the closure of its unit and destroyed the cans and bubbles, which were ready for sale.

Shri P. Venkata Rao, learned counsel for the petitioner argued that the action taken by the authorities of Ongole Municipality to force the closure of water manufacturing unit and destroy the equipments is violative of his client's fundamental right guaranteed under Articles 19 (1)(g) and
300-A of the Constitution. He submitted that the authorities could not have forced closure of the unit till the disposal of the application filed for issue of BIS certificate. He submitted that the samples of water manufactured by the petitioner have been sent for testing in the two

laboratories situated at Kalpakam in Tamilnadu and Hyderabad in Andhra Pradesh and, therefore, the Court may, as an interim measure, allow it to undertake the manufacture of packaged drinking water.

In our opinion, there is no merit in the submission of the learned counsel. Undisputedly, obtaining of BIS certificate is a condition precedent for manufacture of packaged drinking water. It is also not in dispute that the petitioner does not have the requisite certificate. As a matter of fact, application dated 18-8-2006 filed by the Proprietor of the petitioner for grant of BIS certification was rejected by the Bureau of Indian Standards, Hyderabad vide letter dated 28-8-2006 on the ground that the procedure for grant of licence for packaged drinking water has been changed and he is required to apply under the new procedure. In the absence of the requisite certificate, this Court cannot issue a writ, which may result in violation of the provisions contained in the Indian Standards Act.

With the above observations, the writ petition is dismissed. However, liberty is given to the petitioner to apply to the concerned authority of Ongole Municipality to allow it to undertake manufacture of packaged drinking water after obtaining the required BIS certificate.

As a sequel to dismissal of the writ petition, WPMP No.24575 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

October 09, 2006

svs